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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10
11 RIGHTHAVEN LLC, a Nevada limited-
12 liability company,

13
14 Plaintiff,

15 v.

16 DEMOCRATIC UNDERGROUND, LLC, a
District of Columbia limited-liability
17 company; and DAVID ALLEN, an individual,

18 Defendants.
19

Case No.: 2:10-cv-01356

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

20 Righthaven LLC (“Righthaven”) complains as follows against Democratic Underground,
21 LLC (“Democratic Underground”) and David Allen (“Mr. Allen”; collectively with Democratic
22 Underground known herein as the “Defendants”), on information and belief:
23

24 **NATURE OF ACTION**

25 1. This is an action for copyright infringement pursuant to 17 U.S.C. § 501.
26
27
28

PARTIES

1
2 2. Righthaven is, and has been at all times relevant to this lawsuit, a Nevada limited-
3 liability company with its principal place of business in Nevada.

4 3. Righthaven is, and has been at all times relevant to this lawsuit, in good standing
5 with the Nevada Secretary of State.

6 4. Democratic Underground is, and has been at all times relevant to this lawsuit, a
7 District of Columbia limited-liability company.

8 5. Democratic Underground is, and has been at all times relevant to this lawsuit,
9 identified by the current registrar, Dotster, Inc. (“Dotster”), as the registrant for the Internet
10 domain found at <democraticunderground.com> (the “Domain”).

11 6. Democratic Underground is, and has been at all times relevant to this lawsuit,
12 identified by Dotster as an administrative contact and technical contact for the Domain.

13 7. Mr. Allen is, and has been at all times relevant to this lawsuit, identified by
14 Dotster as an administrative contact and technical contact for the Domain.

15 8. Mr. Allen is, and has been at all times relevant to this lawsuit, identified as the
16 owner of Democratic Underground by the content accessible through the Domain (the content
17 accessible through the Domain and the Domain itself, collectively known herein as the
18 “Website”), as evidenced by the “Contact Us” page of the Website, attached hereto as Exhibit 1.

19
20 **JURISDICTION**

21 9. This Court has original subject matter jurisdiction over this copyright
22 infringement action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

23 10. Righthaven is the owner of the copyright in the literary work entitled: “Tea Party
24 power fuels Angle” (the “Work”), attached hereto as Exhibit 2.

25 11. At all times relevant to this lawsuit, the Work has depicted and depicts the
26 original source publication as the Las Vegas *Review-Journal*.

27 12. The Defendants willfully copied, on an unauthorized basis, a substantial and
28 significant portion of the Work from a source emanating from Nevada.

1 13. On or about May 13, 2010, the Defendants displayed, and continue to display, an
2 unauthorized reproduction of the Work (the “Infringement”), attached hereto as Exhibit 3, on the
3 Website.

4 14. At all times relevant to this lawsuit, the Infringement has depicted and depicts the
5 original source publication as the *Las Vegas Review-Journal*.

6 15. The subject matter, at least in part, of the Work and the Infringement, is the
7 support given to Sharon Angle by the Tea Party and its effect on the race for the republican
8 nomination to oppose Harry Reid for one of Nevada United States Senate seats.

9 16. At all times relevant to this lawsuit, the Defendants knew that the Work was
10 originally published in the *Las Vegas Review-Journal*.

11 17. At all times relevant to this lawsuit, the Defendants knew that the infringement
12 was and is of specific interest to Nevada residents.

13 18. The Defendants’ display of the Infringement was and is purposefully directed at
14 Nevada residents.

15 19. The Defendants knew, or reasonably should have known, that websites, such as
16 the Website, are and were at all times relevant to this lawsuit, the habitual subject of postings by
17 others of copyright-infringing content.

18 20. At all times relevant to this lawsuit, the Defendants did not institute any proactive
19 policy of precluding or attempting to preclude the posting by others of copyright-infringing
20 content on the Website.

21 21. At all times relevant to this lawsuit, the Defendants did not institute any proactive
22 policy of monitoring or attempting to monitor the posting by others of copyright-infringing
23 content on the Website.

24 22. At all times relevant to this lawsuit, the Defendants did not institute any proactive
25 policy of deleting or attempting to delete the posting by others of copyright-infringing content on
26 the Website.

27 23. At all times relevant to this lawsuit, the Defendants’ failure to institute any
28 proactive policies intended to address the posting by others of copyright-infringing content on

1 the Website constituted and constitutes the Defendants' willful blindness to copyright
2 infringements occurring on the Website.

3
4 **VENUE**

5 24. The United States District Court for the District of Nevada is an appropriate
6 venue, pursuant to 28 U.S.C. § 1391(b)(2), because a substantial part of the events giving rise to
7 the claim for relief are situated in Nevada.

8 25. The United States District Court for the District of Nevada is an appropriate
9 venue, pursuant to 28 U.S.C. § 1391(c), because Democratic Underground is subject to personal
10 jurisdiction in Nevada.

11 26. The United States District Court for the District of Nevada is an appropriate
12 venue, pursuant to 28 U.S.C. § 1400(a), because the Defendants are subject to personal
13 jurisdiction in Nevada.

14
15 **FACTS**

16 27. The Work constitutes copyrightable subject matter, pursuant to 17 U.S.C. §
17 102(a)(1).

18 28. Righthaven is the owner of the copyright in and to the Work.

19 29. The Work was originally published on May 13, 2010.

20 30. On July 9, 2010, the United States Copyright Office (the "USCO") granted
21 Righthaven the registration to the Work, copyright registration number TX0007171977 (the
22 "Registration") and attached hereto as Exhibit 4 is evidence of the Registration from the official
23 USCO database record depicting the occurrence of the Registration.

24 31. On or about May 13, 2010, the Defendants displayed, and continue to display, the
25 Infringement on the Website.

26 32. The Defendants did not seek permission, in any manner, to reproduce, display, or
27 otherwise exploit the Work.

1 33. The Defendants were not granted permission, in any manner, to reproduce,
2 display, or otherwise exploit the Work.

3
4 **CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT**

5 34. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through
6 33 above.

7 35. Righthaven holds the exclusive right to reproduce the Work, pursuant to 17
8 U.S.C. § 106(1).

9 36. Righthaven holds the exclusive right to prepare derivative works based upon the
10 Work, pursuant to 17 U.S.C. § 106(2).

11 37. Righthaven holds the exclusive right to distribute copies of the Work, pursuant to
12 17 U.S.C. § 106(3).

13 38. Righthaven holds the exclusive right to publicly display the Work, pursuant to 17
14 U.S.C. § 106(5).

15 39. The Defendants reproduced the Work in derogation of Righthaven's exclusive
16 rights under 17 U.S.C. § 106(1).

17 40. The Defendants created an unauthorized derivative of the Work in derogation of
18 Righthaven's exclusive rights under 17 U.S.C. § 106(2).

19 41. The Defendants distributed, and continue to distribute, an unauthorized
20 reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under
21 17 U.S.C. § 106(3).

22 42. The Defendants publicly displayed, and continue to publicly display, an
23 unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive
24 rights under 17 U.S.C. § 106(5).

25 43. Democratic Underground has willfully engaged in the copyright infringement of
26 the Work.

27 44. Mr. Allen has willfully engaged in the copyright infringement of the Work.
28

1 45. The Defendants' acts as alleged herein, and the ongoing direct results of those
2 acts, have caused and will continue to cause irreparable harm to Righthaven in an amount
3 Righthaven cannot ascertain, leaving Righthaven with no adequate remedy at law.

4 46. Unless the Defendants are preliminarily and permanently enjoined from further
5 infringement of the Work, Righthaven will be irreparably harmed, and Righthaven is thus
6 entitled to preliminary and permanent injunctive relief against further infringement by the
7 Defendants of the Work, pursuant to 17 U.S.C. § 502.

8
9 **PRAYER FOR RELIEF**

10 Righthaven requests that this Court grant Righthaven's claim for relief herein as follows:

11 1. Preliminarily and permanently enjoin and restrain the Defendants, and the
12 Defendants' officers, agents, servants, employees, attorneys, parents, subsidiaries, related
13 companies, partners, and all persons acting for, by, with, through, or under the Defendants, from
14 directly or indirectly infringing the Work by reproducing the Work, preparing derivative works
15 based on the Work, distributing the Work to the public, and/or displaying the Work, or ordering,
16 directing, participating in, or assisting in any such activity;

17 2. Direct the Defendants to preserve, retain, and deliver to Righthaven in hard copies
18 or electronic copies:

19 a. All evidence and documentation relating in any way to the Defendants'
20 use of the Work, in any form, including, without limitation, all such evidence and
21 documentation relating to the Website;

22 b. All evidence and documentation relating to the names and addresses
23 (whether electronic mail addresses or otherwise) of any person with whom the
24 Defendants have communicated regarding the Defendants' use of the Work; and

25 c. All financial evidence and documentation relating to the Defendants' use
26 of the Work;

27 3. Direct Dotster and any successor domain name registrar for the Domain to lock
28 the Domain and transfer control of the Domain to Righthaven;

1 4. Award Righthaven statutory damages for the willful infringement of the Work,
2 pursuant to 17 U.S.C. § 504(c);

3 5. Award Righthaven costs, disbursements, and attorneys' fees incurred by
4 Righthaven in bringing this action, pursuant to 17 U.S.C. § 505;

5 6. Award Righthaven pre- and post-judgment interest in accordance with applicable
6 law; and

7 7. Grant Righthaven such other relief as this Court deems appropriate.
8

9 **DEMAND FOR JURY TRIAL**

10 Righthaven requests a trial by jury pursuant to Fed. R. Civ. P. 38.

11 Dated this tenth day of August, 2010.
12

13 RIGHTHAVEN LLC

14
15 By: /s/ J. Charles Coons
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